

### **REMARKS/ARGUMENTS**

Claims 1, 2-8, 10, 12-14, 16-17, 19, and 20 are pending in this application. Claim 8 has been amended and claim 11 has been cancelled in accordance with the Examiner's suggestion. The amendment to claim 8 is support by claim 1 and the present specification, as originally filed. No new matter has been added.

As an initial matter, Applicants wish to thank the Examiner for the indicated allowance of the present claims.

Reconsideration of the application is requested in view of the following remarks.

#### **Claim Objections**

Claim 8 has been amended and claim 11 has been cancelled, as indicated above. Accordingly, withdrawal of the objection is respectfully requested.

#### **Claim Rejection Under 37 C.F.R. § 112**

The rejection of claim 8 under 35 U.S.C. § 112, second paragraph has been obviated by the above-amendment. Accordingly, withdrawal of the objection is respectfully requested.

#### **Claim Rejection under 35 U.S.C. § 103(a)**

The rejection of claim 8 under 35 U.S.C. § 103(a) as obvious over Tiefensee (WO 97/08241) is respectfully traversed and obviated by amendment.

The reference does not describe or suggest a *process* for producing thermoplastic molding compositions according to claim 1. In particular, as pointed out in the Response filed March 23, 2009, Applicants submit that the presently claimed thermoplastic molding composition provides improved molding materials over Tiefensee. Specifically, claim 8 (similar to claim 1) recites the range of C22 to "63 to 70%" (and C21 to "30 to 35%, C23 to "0 to 2%"). These improvements include chemical resistance and water uptake, as described throughout the present specification. Further, as shown by the examples and comparative examples in the present specification, an increase in the fraction of methacrylic ester in the first graft shell leads to the solution, which is not described or suggested by Tiefensee. In particular, the examples

prove an effect for 63% (ex. 4) compared to 58% C22 (comp. ex C4). These effects, within the claimed ranges, are not indicated in Tiefensee.

Accordingly, the claimed invention is not obvious in view of the cited references. Therefore, withdrawal of the rejection is respectfully requested.

### **New Matter Rejection**

The Office has maintained the new matter rejection of the specification, in view of the Preliminary Amendment filed June 9, 2006. According to the Office,

The documents applicants are attempting to incorporate by reference [i.e., the priority applications] are not in English and the examiner can hardly verify whether or not new matter is present. Burden is on applicants even when a (English) substitute specification is submitted to ensure that no new matter is present, 37 CFR 1.125. Applications [to which foreign] priority is claimed are not necessarily assumed to support a US application as a certified translation is needed to overcome a reference with an effective filing date intervening between the date of the priority document and filing date of the US application, MPEP 201.15.

Final Office Action at pages 3-4.

However, Applicants respectfully point out that a “preliminary amendment present on the filing date of the application (e.g., filed along with the filing of the application) is considered a part of the original disclosure.” MPEP § 714.01(e) and § 602; and 37 CFR 1.115. Therefore, the reference to the priority applications should be entered and considered by the Office – and not as new matter.

Applicants also point out that the “only times during ex parte prosecution that the examiner considers the merits of an applicant's claim of priority is when a reference is found with an effective date between the date of the foreign filing and the date of filing in the United States and when an interference situation is under consideration.” MPEP § 201.15 (Right of Priority, Overcoming a Reference). However, overcoming a reference based on foreign priority is not issue in the present application, and therefore a separate certified translation should not be necessary. Therefore, the rejection should be withdrawn, since as previously pointed out on the record, the present specification is fully supported by the priority documents, no new matter has

been added to the full English version, and there is no indication that any of the disclosure/claims are not supported. Accordingly, reconsideration of the rejection is respectfully requested.

In view of the above amendment and remarks, Applicants believe the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 12810-00256-US1 from which the undersigned is authorized to draw.

Dated: September 8, 2009

Respectfully submitted,

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